

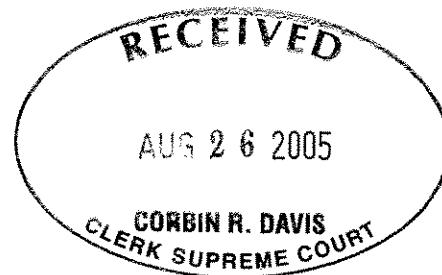


The Circuit Court
for the Sixth Judicial Circuit of Michigan

COURTHOUSE TOWER
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PONTIAC MI 48341-0404

FRED M. MESTER
CIRCUIT JUDGE

August 22, 2005



Mr. Corbin Davis
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: Proposed Amendment of Michigan Rules of
Court 8.103
ADM File No. 2004-42

Dear Mr. Davis:

I concur with the letters from our Chief Judge Wendy Potts and Judge Michael Warren, of our Court. I, likewise, agree with the spirit of the proposed amendment to MCR 8.103. I offer the following observations.

First, I wish to address Judge Warren's third critical analysis to MCR 8.103, suggesting that it unfairly subjects all judges to a Request for Investigation without any particularized finding that an investigation is warranted.

During my term as Court Administrator of this Court, we added three additional judgeships. Since the three judges were not inheriting any judge's docket, we had to establish three new dockets. We did that with a formula that insured a random selection of cases by type and age from the already established 11 dockets. We kept these dockets as close to 1,000 cases as we could, making them some of the smallest dockets on our Court providing each new judge with a "learning" opportunity as they progressed into the status of judge.

When I took the bench in 1982, my docket that had three times the number of cases in excess of two years than any other docket on the Bench because the judge whose docket I took over had been ill for many months. However, despite the fact that I tried many cases, both jury and non-jury, my docket seemed to maintain a heavy number over two years. Nevertheless, in these first years, at any one time according to the new Rule, I could have been

reported to the Judicial Tenure Committee. In the last 15 years, my docket has been in control with us being in the top three in both jury and non-jury trials. Nevertheless, it is easy to slip as Judge Warren pointed out if there is a family crisis, the burden of lengthy trials, etc. As a matter of fact, in the last four years, I have presided over two cases which the trials have lasted more than two months. This latter experience happens to everyone on our Court, yet we have one of the hardest working courts in this state. We are very good at looking after each other and policing ourselves.

Another consideration is that many of us have taken on other responsibilities for our Court, such as Chairman of Community Corrections, without any docket reduction. We gladly do it and we can maintain our dockets. Further, we have rightly chosen to have our chief judge's docket is reduced by 40% to enable her to accomplish her many and varied tasks, and, to have her pro tem docket to be reduced by one quarter. We have done this for over 25 years. The demands on a court in this time required a chief judge to have a reduced docket to have the freedom to work effectively with the Court Administrator in docket control, budgetary staffing, etc. Also, it should be noted that after a person serves as a chief judge or chief judge pro tem, they do not get their dockets replenished with the cases they lost during the prior two years. They simply are placed back on the same number of cards as other judges in the blind draw stacks, other than the new chief judge.

So, as Judge Warren and Chief Judge Potts point out, there is much to be considered. We must address the docket control problem through the chief judges with the power already vested in them. Also, I caution that you may want to consider the overall impact the announcement will have on the citizen perception of the judiciary. Just the announcement of such a rule must include a cautionary instruction that this simply is addressed to those few judges who do not have docket control. It must also be emphasized that docket control and numbers alone do not necessarily reflect a good judge if there is not also an environment of fairness and justice.

Sincerely,



Fred M. Mester
Circuit Judge

FMM/cle